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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,247	07/31/2001	Bart Daniel	40661/23657	2800

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 HUSCH & EPPENBERGER, LLC
 190 CARONDELET PLAZA
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 ST. LOUIS, MO 63105-3441

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SEP 02 2003

Husch-Eppenger LLC

EXAMINER

SELF, SHELLEY M

ART UNIT

PAPER NUMBER

3725

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Action: file response
 DOCKETED/H&E
 Due Date: 11/27/03; 2/27/04 Stat
 By: dec 9/2/03
 2d check: _____

Office Action Summary

Application No.

09/919,247

Applicant(s)

DANIEL ET AL

Examiner

Shelley Self

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 10-15, 23 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 16-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other:

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DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group II in Paper No. 9 is acknowledged. The traversal is on the ground(s) that "the claims (1-9, 16-22) are but different definitions of the same disclosed subject matter, varying in breath or scope of definition". Applicant's remarks are deemed persuasive, accordingly the restriction between Groups I, II, IV (clms. 1-9, 16-22) is withdrawn.

Claims 10-15, 23 and 24 (Group III) are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant has not traversed the restriction involving Group III. Accordingly, the restriction requirement is made Final.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 114, 218, 328a, 352, 354, 342, 316, 336a, 350, 330, 650, 648, 566, 578.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "12" has been used to designate both bale vertical side and base (fig/ 4).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 65 and 312.

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A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. With regard to claim 1, there is no antecedent basis for the term "frame" in the specification. With regard to claims 1 and 3, the specification fails to provide support for the following terms, "a plurality of bale strap drivers...said bale strap drivers driving strap through at least two adjacent strap guide tracks simultaneously.

Additionally with regard to claim 3, the specification fails to support, the term "*support head assemblies*"; rendering a clear understanding of the claim difficult. Additionally, with regard to claim 3,

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

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Claims 3-9 and 16-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 3, it is unclear if the carriage is slidably attached to said base or if the plurality of support head assemblies is attached to said base. Examiner suggests—wherein said carriage (plurality of support head assemblies) is slidably attached to said base.

With regard to claim 4, there is no antecedent basis for the term "*said wire fasteners*" in the claim.

With regard to claim 6, it is unclear if "*said plurality of support head assemblies*" each have six heads, or if the overall number of support head assemblies is six.

With regard to claim 16, the claim fails to positively recite the critical interrelationship between the elements; the claim appears to be a catalogue recitation of elements. Additionally, there is no antecedent basis for the term, "the wire" in the claim (line 7). Further, line 5 states, "at least one articulated guide track", however line 8, states a plurality of adjacent articulated guide tracks", this renders the claim vague and indefinite.

With regard to claims 20 and 21, there is no antecedent basis for the term "*the drive shaft*" in the claims. Additionally with regard to claims, it is unclear how the drive shaft(s) relate to the rest of the elements of the claimed invention. The claims fails to positively recite the critical relationship between the drive shaft and the remaining elements.

All of the claims should be reviewed for clarity, positive recitation of critical interrelationships and antecedent basis concerns.

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, as best as can be understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Neitzel et al. (3,213,780). Neitzel discloses a bulk material baler (fig. 1) comprising a frame (40, 41), six bale strap guide tracks (fig. 1), strap drivers and bale strap fasteners (129; fig. 9, 10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 as best as can be understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Neitzel et al. (3,213,780). Neitzel does not disclose six strap drivers and bale strap fasteners. It would have been obvious to one having ordinary skill in the art to construct Neitzel having six strap drivers and six strap fasteners since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

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Claims 3-9 and 16-22 as best as can be understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer et al. (3,720,158). With regard to claims 3, 6, 9, 16 and 17, Sauer discloses a baler base, a support head assembly supported by a translating carriage (40), a plurality of strap guide tracks (68,70), a strap driver and strap fastener (col. 5, lines 19-27). Sauer does not disclose a plurality of support head assemblies, a plurality of strap drivers, a plurality of strap fasteners or a carriage assembly having three support heads. It would have been obvious at the time of the invention to one having ordinary skill in the art to provide Sauer with a plurality of support head assemblies, a plurality of strap drivers or a plurality of strap fasteners, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

As to the electro servomotors to propel the strap fasteners or strap drivers (clms. 4, 5, 7, 8 and 16), as best as can be understood, Sauer does not disclose electro servomotors to propel the strap fasteners or strap drivers. It would have been obvious to one having ordinary skill in the art to use any power means to power/propel the strap fasteners or strap drivers. The specific selection of an electro servo means is one of a mechanical expedient (i.e. pneumatic, hydraulic, electric, electro servo, etc...) and requires only routine skill in the art.

With regard to claims 18-22, as best as can be understood, Sauer disclose drive wheels (col. 5, lines 20-52).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (703) 305-5299. The

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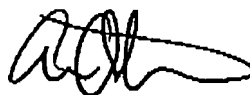
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examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Allen Ostrager can be reached at (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

SSelf

August 20, 2003



ALLEN OSTRAGER
SUPERVISORY PATENT EXAMINER
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